



DEPARTMENT OF THE NAVY
NATIONAL NAVAL MEDICAL CENTER
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BETHESDA MARYLAND 20889-5600

ORIGINAL

IN REPLY REFER TO

NATNAVMEDCENINST 5370.2C

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NATNAVMEDCEN INSTRUCTION 5370.2C

Subj: OUTSIDE CIVILIAN EMPLOYMENT OF NATIONAL NAVAL MEDICAL
CENTER PERSONNEL

Ref: (a) DOD 5500.7-R of 30 Aug 93
(b) MANMED 1-22 as amended by BUMED Notice 6000 of
22 Aug 98
(c) MILPERSMAN 5370-010
(d) 5 U.S.C. §5533-6
(e) DOD 6025.13-R
(f) ASD(HA) policy from 23 July 1996
(g) ASD(HA) policy from 10 December 1996
(h) BUMEDINST 6320.67(Series)
(i) DOD 1334.01 (prohibiting wear of uniform)
(j) 18 U.S.C. § 203
(k) 18 U.S.C. § 205
(l) 18 U.S.C. § 208
(m) 18 U.S.C. § 209
(n) 5 CFR 2635.502 (consultant)
(o) 5 C.F.R. 2635.703 (can't disclose non-public info)
(p) FAR 3.104
(q) DoD 1400.25M
(r) DoD 1401.1M
(s) 5 C.F.R. 2635.802 (conflict of interest)
(t) 5 C.F.R. 2635.805 (expert testimony)
(u) SECNAVINST 5820.8A (expert testimony)
(v) 5 C.F.R. 2635.807
(w) DoD 5230.9 (Pub Clearance)
(x) BUMEDINST 5721.3(Series) (Pub clearance)

Encl: (1) Off-Duty Employment Request/Acknowledgement Form
(2) Off-Duty Civilian Employment Request (Healthcare)
(3) Off-Duty Civilian Employment Request (Non-Healthcare)
(4) Employer's Acknowledgment Letter
(5) Special Request Authorization NAVPERS 1336/3
(Rev 8/05)
(6) Monthly Off-Duty Employment Report
(7) Annual Off-Duty Employment Statement
(8) Publication Clearance Process Through IRBNet

1. Purpose. To implement references (a) through (x) and to

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(paid) employment and outside activities (non-paid) of all military and Government civilian personnel assigned to or employed by the National Naval Medical Center (NNMC) and to establish procedures for requesting, authorizing and monitoring it.

2. Cancellation. NATNAVMEDCENINST 5370.2B.

3. Background. The above references provide policy and general guidance for all government employees concerning standards of professional and ethical conduct, particularly in off-duty activities. The avoidance of conflicts of interest is of paramount concern. This instruction now contains policy for individuals to engage in off-duty work involving teaching, writing, and publishing ("scholarly events"). Finally, it provides guidance regarding outside activities.

4. Applicability and Scope

a. This instruction applies to all military and civilian personnel assigned to or employed by NNMC. The majority of this instruction will have special impact for active duty officer personnel and their civilian equivalents who are healthcare practitioners and/or professionals. However, portions of it will impact all NNMC military personnel and civilian employees, whether or not they are healthcare practitioners and professionals. This instruction does not apply to NNMC contractor employees unless the governing contract provides otherwise.

b. Violation of these provisions may be cause for disciplinary action under the Uniform Code of Military Justice and forms the basis for appropriate disciplinary or administrative action with respect to NNMC civilian employees.

c. These guidelines do not apply to the provision of emergency medical assistance in isolated cases.

d. All personnel who engage in non-remunerative community services or volunteer work, provided to benefit the community, must also be aware of ethical rules that may impact their outside activities.

e. Given the complexity of this instruction's subject

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matter and to better assist all NNMC employees, the following explains which sections in this instruction apply to given individuals:

(1) For all healthcare practitioners and/or professionals, military or civilian, see:

(a) Paragraphs 5 to 7, which contain definitions, overall policy issues, and provisions applicable to all off-duty employment and outside activities.

(b) Paragraph 8, which concerns procedures for paid off-duty employment applicable to them.

(c) Paragraph 12, which concerns infrequent speaking, writing, and teaching engagements.

(d) Paragraph 13, which contains special provisions applicable for outside activities done for no remuneration or pay.

(2) For all military officers who are not engaged in the provision of healthcare, see:

(a) Paragraphs 5 to 7, which contain definitions, overall policy issues, and provisions applicable to all off-duty employment and outside activities.

(b) Paragraph 9, which concerns procedures for paid off-duty employment applicable to them.

(c) Paragraph 12, which concerns infrequent speaking, writing, and teaching engagements.

(d) Paragraph 13, which contains special provisions applicable for outside activities done for no remuneration or pay.

(3) For all enlisted members, see:

(a) Paragraphs 5 to 7, which contain definitions, overall policy issues, and provisions applicable to all off-duty employment and outside activities.

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(b) Paragraph 10, which concerns procedures for paid off-duty employment applicable to them

(c) Paragraph 12, which concerns infrequent speaking, writing, and teaching engagements.

(d) Paragraphs 13, which contains special provisions applicable for outside activities done for no remuneration or pay.

(4) For all civilian employees who are not engaged in the provision of healthcare, see:

(a) Paragraphs. 5 to 7, which contain definitions, overall policy issues, and provisions applicable to all off-duty employment and outside activities;

(b) Paragraph. 11, which concerns paid off-duty employment;

(c) Paragraph. 12, which concerns infrequent speaking, writing, and teaching engagements;

(d) Paragraph. 13, which contains special provisions applicable for outside activities done for no remuneration or pay;

5. Definitions: For purposes of this instruction, the following definitions apply.

a. NNMC employee. This term includes: NNMC civilian officers or employees, including non-appropriated fund activities; any active duty regular or reserve military officer, including warrant officers; any active duty enlisted member; Public Health Service officers; and any Reserve or National Guard member on active duty under orders issued pursuant to title 10, United States Code.

b. Healthcare practitioner and/or professional. Any active duty or civilian equivalent physician, dentist, or healthcare practitioner of one of the professions whose members are required to possess a professional license or other similar authorization. These include DoD healthcare personnel who are physicians, dentists, registered nurses, practical nurses,

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physical therapists, podiatrists, optometrists, clinical dieticians, social workers, clinical pharmacists, clinical psychologists, occupational therapists, audiologists, speech pathologists, physician assistants, or any other person providing direct patient care as may be designated by the Assistant Secretary for Defense, Health Affairs (ASD (HA)).

c. Off-duty Outside Employment. Services by a NNMC healthcare practitioner (active duty, reservist on active duty at NNMC, or civilian equivalent) during his or her off-duty time for which compensation is received. This includes self-employment.

d. Outside activity: Any activity not a part of the NNMC employee's official duties for which the individual receives no remuneration (pay). This includes non-remunerative community services operated by nonprofit organizations for the benefit of all community and deprived persons, such as a drug abuse program, program volunteer, venereal disease center, or family planning center.

e. Official capacity: Generally, this means acting as part of a Government employee's (military or civilian) official duties.

f. Personal capacity: This means acting as a private citizen, not as a Government employee (military or civilian).

g. Self employment: A type of off-duty/outside employment that includes the sale of insurance, stocks, mutual funds, cosmetics, household supplies, vitamins, and other consumer goods and services, whether or not they are commercially manufactured or made.

6. Policy. It is the policy of this command to ensure that all NNMC employees comply with this instruction. All military (officers and enlisted) and all NNMC civilian employees who are healthcare practitioners and/or professionals will get written permission to engage in off-duty employment beforehand. NNMC civilian employees who are not healthcare practitioners and/or professionals must still comply with references (a), (d), (j) through (p), and (s) through (x) with respect to off-duty employment. When necessary, all NNMC employees should consult the Office of the Staff Judge Advocate to clarify questions of

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conduct and other ethical issues related to off-duty employment and outside activities. Subject to the limitations contained herein, NNMC employees normally will not be restrained from engaging in off-duty employment or outside activities.

7. Provisions Applicable to All Off-Duty Employment and Outside Activities Done By All NNMC Employees.

a. NNMC employees must understand that the Government assumes no responsibility for the individual's actions with respect to off-duty employment or outside activities.

b. NNMC employees who engage in any outside activity or off-duty employment may not:

(1) subject the Federal Government to any expense as a result of this activity or employment; or

(2) use Government materials, equipment, or other personnel in connection with this activity or employment.

c. Per reference (a), NNMC employees who are confidential financial disclosure form (OGE 450/450A) filers must be certain to report certain things on their forms:

(1) All off-duty employment that produces a salary, fee, commission, and other earned income that is greater than \$200,

(2) Honoraria greater than \$200, and

(3) All positions outside the U.S. Government held at any time during the reporting period, whether or not there was compensation. Positions include an officer, director, employee, trustee, partner, proprietor, representative, executor or consultant for any political entity, corporation, partnership, trust, or other business entity. NNMC employees do not need to report any position with an entity that is, in nature, religious, social, fraternal, or political. NNMC employees also do not need to report on the form any position that is held as part of the employee's official duties.

d. Generally, NNMC employees may not do anything which implies DoD or DoN endorsement of the outside employment or activity. For instance, they may not refer to their official

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position at NNMC in connection with commercial enterprises, to endorse commercial products or businesses, or in relation to their outside employment or activities. Additionally, it is DoD and DoN policy that the wearing of the uniform is prohibited during or in connection with furthering private employment or commercial interests, when an inference of official sponsorship of the activity or interest can be drawn, per reference (i). Off-duty employment that has the potential for recruiting or public affairs benefit to the Navy must comply with reference (c).

e. Consistent with references (t) and (u), NNMC employees shall not provide opinion or expert testimony concerning official DoD or DoN information, personnel, or activities without proper authorization that is coordinated through the Office of the Staff Judge Advocate. In private litigation, they may discuss the treatment of their patients but must not respond to hypothetical questions or requests for expert opinions.

f. Conflicts of interest are to be avoided. See also references (n) and (s).

(1) Reference (l) applies to commissioned military officers or Federal civilian employees and provides that if they are participating personally and substantially, as part of their official duties, in a particular government matter, then they shall not work as an employee of a company or organization that has a financial interest in that matter. Commissioned military officers and Federal civilian employees may face Federal criminal action if they violate this provision. There is a similar provision that applies to enlisted military personnel in reference (a); enlisted members may face disciplinary action per the Uniform Code of Military Justice. See also reference (m).

(2) When an NNMC employee is working on a particular government matter, and a company is a party to the matter, the NNMC employee should not have any type of business relationship with the company (including as a consultant), unless the employee has informed his/her supervisor about the situation, and the supervisor has determined that the need for the employee to work on the government matter outweighs the appearance problems that would result from the employee simultaneously working on the government matter and having an outside business relationship with the company, per reference (a). The

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supervisor should consult the Staff Judge Advocate's Office for assistance.

(3) References (j) and (k) are Federal criminal statutes concerning representational bans where a NNMC employee wishes to engage in off-duty employment with a company and then represent that company back to the Government. It is sometimes difficult to draw a clear line between communications that will violate the representation ban and those that will not. A mistake in judging whether certain actions are permissible can result in a Federal criminal prosecution of the NNMC employee. For this reason, the prudent course may be to avoid in one's off-duty employment all types of representation of persons, companies and non-Federal organizations before a Federal agency. See para. 7(g)(2) below.

(4) References (a), (d), and (m) provide that NNMC employees cannot receive any salary, or any contribution to or supplementation of salary, as compensation for his or her services to the Federal Government, from any source other than the Federal Government.

g. Prior approval is needed for off-duty employment done during periods of regular leave and terminal leave.

(1) Commissioned officers on transition leave are prohibited from working for Government contractors in Government workspaces until the officer's actual retirement date because this constitutes inappropriate representation of an outside organization to the Government, per references (j) and (k).

(2) Because of potential representation issues, all NNMC employees are discouraged from working as a Government contractor in any Government facility.

h. Reference (o) provides that NNMC employees may not disclose "non-public information" to further the private interests of any individual, company or organization. As defined in this reference, "non-public information" is "information that the employee gains by reason of Federal employment and that he knows (or reasonably should know) has not been made available to the general public."

i. Consistent with reference (a), NNMC employees may not

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serve, in their official capacity, on an advisory board or advisory committee for a defense contractor. Employees who are considering serving as an advisor to a defense contractor in their personal capacity should consult the Staff Judge Advocate office.

j. Reference (p) generally prohibits the Government from awarding a contract to a NNMC employee or to a business concern or other organization owned or substantially owned or controlled by one or more government employees.

8. Off-duty Employment Provisions Applicable to all Healthcare Practitioners and/or Professionals (This Applies To Military Officers and Civilians) (Per, in particular, references (b), (e), (f), and (g))

a. Engaging in off-duty employment is a privilege, not a right. Permission to engage in off-duty employment may be withdrawn at any time by the Commander or the Commander's designee. However, if the off-duty employment is in compliance with the above references, does not interfere with the provision of healthcare, and does not interfere with accomplishing the mission, it should be approved.

(1) Permission shall be withdrawn at the beginning of any inquiry into potentially reportable actions of misconduct or professional impairment until the issues are resolved per reference (h).

(2) Commanders shall ensure that the appropriate officials at all civilian places of employment are immediately notified whenever permission is withdrawn.

(3) If permission is withdrawn, the individual affected will be afforded an opportunity to submit to the Commander or the Commander's designee a written statement containing information pertinent to the questioned employment.

b. Before starting off-duty employment, all active duty military and civilian healthcare practitioners and/or professionals shall obtain the written permission of the Commander or the Commander's designee.

c. Active duty military and civilian healthcare practitioners and/or professionals shall not engage in any off-

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duty employment which:

(1) by reason of the hours or nature of work, interferes with the proper and efficient performance of their duties at NNMC;

(2) reflects discredit on the military service; or provide such services on property owned, leased or under the control of DOD;

(3) is otherwise inconsistent with the provisions of the above references.

d. No NNMC healthcare practitioner and/or professional will accept employment by an organization at a location where a strike has commenced or during the course of that strike. If employed prior to the beginning of the strike, the employee may be permitted to continue such employment. See para. 8s below.

e. Prior approval also includes off-duty employment that does not involve the provision of healthcare. For instance, a healthcare practitioner and/or professional who desires to engage in off-duty employment such as in marketing or direct product sales must still get prior approval. The difference lies in the documentation that must be completed.

f. Permission to engage in off-duty employment must be approved annually. The individual engaged in off-duty employment is responsible for initiating a renewal package 30 days' prior to the expiration of the current approval date. If interested in engaging in off-duty employment at more than one location, the individual must submit complete justification with his/her application. A new application is required for each off-duty employment site for individuals who have been previously approved to engage in off-duty work.

g. Active duty military are in a 24-hour duty status and must be available to perform assigned duties at all times. Military duties shall take precedence over off-duty employment. Civilian health care providers must be available to perform their Federal Government duties during their prescribed working hours. All must advise their potential off-duty employers that they will be subject to respond to NNMC alerts or emergencies that may arise during their periods of off-duty employment.

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This may delay the individual in reporting for off-duty employment or could require the individual to leave the off-duty employment without warning.

h. Absent a waiver from the cognizant director, no active duty NNMC employee will be granted permission to engage in off-duty employment unless he or she meets current R-Status and Physical Readiness requirements.

i. Off-duty employment shall not exceed a total of 16 hours per week, unless in an authorized leave status. The commanding officer can authorize exceptions to the 16-hour per week rule only after finding that special circumstances exist which indicate there is no conflict with official duties, notwithstanding the additional hours. Supervisors will not grant permissive temporary duty (TAD), pass, or compensatory time off for the primary purpose of engaging in off-duty employment. Ordinary leave may be granted in connection with authorized off-duty employment. There shall be a period of at least 6 hours rest between ending an off-duty employment work shift and beginning military or civilian employee duties. Hours worked "on call" or on a "pager watch" must be included in the total hours worked and count against the 16 hours per week maximum. Hours worked while on leave will not count toward the weekly 16 hours, but still must be reported. A week will be deemed to begin on Monday (0001) and end on Sunday (2400) for the purposes of determining the amount of hours per week.

j. Requests to engage in off-duty employment that require in excess of 2 hours driving time will not be approved unless the requester is seeking permission to work during an authorized leave period.

k. NNMC employees engaged in graduate training programs are prohibited from engaging in any off-duty employment. Violation of this prohibition may result in disciplinary action and disenrollment from the training program.

l. NNMC healthcare practitioners and/or providers will not engage in a personal private medical practice.

m. NNMC healthcare practitioners and/or providers shall not assume primary responsibility for the medical or dental care of

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any patient on a continuing basis at the site of off-duty employment.

n. NNMC healthcare practitioners and/or providers engaged in off-duty employment may not solicit or accept compensation, directly or indirectly, for care rendered to any DOD beneficiary or Department of Veterans Affairs beneficiaries. The one exception is with dental services (Reference (b)). References (e), (f), and (g) prohibit NNMC health care providers from acting as TRICARE providers.

o. NNMC healthcare practitioners and/or providers cannot refer beneficiaries seen pursuant to their official duties to facilities with which the provider maintains an off-duty employment relationship.

p. Compliance with applicable local, state or Federal regulations (particularly those of the Federal Drug Enforcement Administration) is the responsibility of the individual health care practitioner and/or provider. Off-duty employment is not within the scope of any NNMC health care practitioners' and/or providers' official duties or responsibilities. Accordingly, Federal law provides no personal liability protection for providers while engaged in off-duty employment. Providers engaged in authorized off-duty employment are strongly encouraged to obtain appropriate professional liability insurance.

q. NNMC healthcare practitioners and/or providers will apply for annual leave for any obligation (e.g., court appearances or testimony before a compensation board) arising out of off-duty employment where these obligations require absence during duty hours. There is no guarantee leave will be granted, but it should be if the leave does not interfere with the healthcare practitioner's and/or provider's responsibilities at NNMC.

r. NNMC healthcare practitioners and/or providers engaged in off-duty employment should not interfere or unfairly compete with local civilian healthcare practitioners. The approval authority must assess the off-duty employment local impact, taking into consideration assessment statements from the employer, local medical or dental society, and NNMC healthcare practitioner and/or provider when deciding the impact level.

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s. Authorization Procedure

(1) All NNMC healthcare practitioners and/or providers (military officers and civilian employees) seeking permission to engage in off-duty employment involving healthcare activities shall submit enclosures (1), (2) and (4), which will go through the chain of command. These must be routed through the Staff Judge Advocate's Office.

(2) All NNMC healthcare practitioners and/or providers (military officers and civilian employees) seeking permission to engage in off-duty employment that does not involve healthcare activities shall submit enclosures (1) and (3), which will go through the chain of command and also routed through the Staff Judge Advocate's Office. NOTE: If the off-duty employment involves infrequent speaking, teaching, or writing engagements, follow paragraph 13 below and not the provisions in this paragraph. If the speaking, teaching, or writing is more regular (for instance, teaching a semester's class at a local college), follow the provisions here.

(3) Submission shall be made to Commander, NNMC, via appropriate chain of command, and Head, Medical Staff Credentialing and Privileging Office. A separate application package is required for each prospective employer. If the proposed employment will occur at multiple locations, each location will be noted on the request. Any changes in the status of an individual's off-duty employment shall be reported to his or her department head and the Medical Staff Credentialing and Privileging Office. Unless there has been a material change in circumstances, annual renewal requests need only include enclosure (2).

t. Reports

(1) All NNMC healthcare practitioners and/or providers who engage in off-duty employment of any kind are responsible for submitting enclosure (6) to the Medical Staff Credentialing and Privileging Office within 10 days of the beginning of each month (for the previous month's work). They must also submit employer verification of that information. Failure to make timely submissions of enclosure (6) is grounds for revocation of off-duty employment privileges and may lead to disciplinary or

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administrative action. Once off-duty employment privileges are approved, this monthly report must be submitted even if no hours were worked in a particular month.

(2) All NNMC healthcare practitioners and/or providers who engage in off-duty employment of any kind must certify their compliance annually with applicable policy and regulatory guidance. This statement must be filed with the Medical Staff Credentialing and Privileging Office during the month of January. Enclosure (7) provides the appropriate format.

(3) Whenever there is a change in the off-duty employment status, the NNMC healthcare practitioner and/or provider must update the paperwork before the inception of such a change.

u. The Medical Staff Credentialing and Privileging Office is responsible for maintaining off-duty employment records for all NNMC health care practitioners and/or providers engaged in off-duty employment of any kind. Records shall be maintained as discussed below. Department Heads shall be informed of violations of this instruction and shall commence appropriate disciplinary or administrative action. Each off-duty employment file, maintained by the Medical Staff Credentialing and Privileging Office, must contain the following, as applicable:

(1) The Off-Duty Employment Acknowledgement (enclosure (1)),

(2) Off Duty Civilian Employment Request, (enclosures (2) or (3)),

(3) Original, Employer's Acknowledgement Letter (enclosure (4)),

(4) Monthly Off-Duty Employment report's (enclosure (6))
and

(5) Annual Off Duty Employment Statement (enclosure (7)).

9. Certain Provisions Applicable to NNMC Military Officers Who are Not Engaged in the Provision of Healthcare

a. NNMC military officers who are not healthcare

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practitioners and/or professionals, as defined above, must still comply with references (a), (d), (j) through (p), and (s) through (x) when it comes to their off-duty employment. This information is further delineated in paragraph 7 above and paragraphs 12 and 13 below. For instance, if a NNMC military officer who is not engaged in the provision of healthcare but wishes to speak, teach, or write, the employee would need to comply with the approval and publication clearance provisions outlined in paragraph 12. As another example, if such a NNMC military officer is an OGE 450 filer and wishes to get an outside job, the employee will still need to properly annotate the OGE 450 form.

b. NNMC military officers who are not engaged in the provision of healthcare must submit NAVPERS 1336/3 (Special Request/Authorization) (enclosure 5) via their chain of command and the Staff Judge Advocate. The request needs to detail what the off-duty employment will entail.

c. If the off-duty employment involves the provision of healthcare (for instance, an officer wants to perform off-duty employment as an emergency medical technician), the officer must comply with the provisions in paras. 8(n), (o), (p), (q), and (r) above.

d. Approval and recordkeeping.

(1) Final approval shall be the responsibility of the requester's department head. No further delegation is authorized. Unless there has been a material change in circumstances, annual renewal requests need only include enclosure (5).

(2) Department Heads are responsible for maintaining off-duty employment records for all NNMC officers not engaged in the provision of healthcare. Department Heads will track violations of this instruction and shall commence appropriate disciplinary or administrative action as needed. Each off-duty employment file, must contain the following:

(a) Original NAVPERS 1336/3 (enclosure (5)),

(b) Original, Monthly Off-Duty Employment Report (enclosure (6)), and

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(c) Original Annual Off-Duty Employment Report
(enclosure (7)).

10. Certain Provisions Applicable to Enlisted Members

a. Enlisted members who are seeking permission to engage in off-duty employment shall submit NAVPERS 1336/3 (Special Request/Authorization) (enclosure (5)) via their chain of command and the Staff Judge Advocate. The request needs to detail what the off-duty employment will entail.

b. References (q) and (r) provide that active duty enlisted members may be employed as part-time or flexible employees during off-duty hours in DoD non-appropriated fund instrumentalities.

c. If the off-duty employment involves the provision of healthcare (for instance, an enlisted member wants to perform off-duty employment as an emergency medical technician), the individual must comply with the provisions in paras. 8(n), (o), (p), (q), and (r) above.

d. Approval and recordkeeping.

(1) Final approval shall be the responsibility of the requester's department head. No further delegation is authorized. Unless there has been a material change in circumstances, annual renewal requests need only include enclosure (5).

(2) Department Heads are responsible for maintaining off-duty employment records for all enlisted members. Department Heads will track violations of this instruction and shall commence appropriate disciplinary or administrative action as needed. Each off-duty employment file, must contain the following:

(a) Original NAVPERS 1336/3 (enclosure (5)),

(b) Original, Monthly Off-Duty Employment Report (enclosure (6)), and

(c) Original Annual Off-Duty Employment Report (enclosure (7)).

11. Certain Provisions Applicable to NNMC Civilian Employees Who are Not Engaged in the Provision of Healthcare

a. NNMC civilian employees who are not healthcare practitioners and/or professionals, as defined above, must still comply with references (a), (d), (j) through (p), and (s) through (x) when it comes to their off-duty employment. This information is further delineated in paragraph 7 above and paragraphs 12 and 13 below. For instance, if a NNMC employee who is not engaged in the provision of healthcare but wishes to speak, teach, or write, the employee would need to comply with the approval and publication clearance provisions outlined in paragraph 11. As another example, if such a NNMC employee is an OGE 450 filer and wishes to get an outside job, the employee will still need to properly annotate the OGE 450 form.

b. NNMC employees who are not engaged in the provision of healthcare are encouraged, but not required, to inform their Department Head of their off-duty employment that falls outside the purview of paragraphs 7 and 12 of this instruction.

c. NNMC employees who are not engaged in the provision of healthcare but who wish to seek off-duty employment may contact the NNMC Staff Judge Advocate's Office for assistance, if needed.

12. Special Provisions Regarding Speaking, Teaching, and Writing Engagements

a. This paragraph outlines requirements for getting permission to speak, write or teach on an infrequent basis and applies to any NNMC employee, military and civilian, whether or not engaged in healthcare. If the speaking, writing, or teaching is on a regular basis (for example, teaching a semester's class at a local college), refer to the provisions above for obtaining permission for off-duty employment. Per references (a) and (v), NNMC employees may speak, teach, and write for publication. However, if the teaching, speaking, or writing relates to the employee's official duties, as defined here, the NNMC employee cannot receive compensation from any source other than the Government for the outside speech, training, or writing.

b. References (w) and (x) require NNMC employees to submit

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any proposed talk, article, or publication through the publication clearance process using enclosure (8).

c. A NNMC employee can receive compensation for teaching, speaking or writing on a subject within the employee's discipline or inherent area of expertise based on his or her educational background or experience even though the teaching, speaking or writing deals generally with a subject within the agency's areas of responsibility. For instance, a general surgeon can still receive compensation from an outside source for giving a talk on general surgery, so long as the talk is just about general surgery and does not relate to his official duties, as defined below.

d. The following are pertinent definitions for this section, per reference (v):

(1) "Relates to official duties" means that one of the following criteria are met:

(a) The activity is undertaken as part of the employee's official duties;

(b) The circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his official position rather than his expertise on the particular subject matter;

(c) A person who has an interest that may be affected substantially by the NNMC employee's performance or non-performance of official duties extended the invitation, directly or indirectly, to engage in the activity or the offer for compensation for the activity;

(d) The information conveyed through the activity draws substantially on ideas or official data that are nonpublic information; or

(e) The subject of the activity deals in significant part with any matter to which the employee presently is assigned or to which the employee had been assigned during the previous one-year period or any ongoing or announced policy, program or operation of the agency.

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(2) "Compensation" includes any kind of income, remuneration, or consideration, including royalties. It includes offers to pay for transportation, lodgings and meals. It does not include offers that can be accepted by the Federal Government, such as gifts of travel; items that an individual can accept from a prohibited source through the gift provisions of 5 CFR 2635; meals or other incidental expenses like waiver of attendance fees or course materials given as part of the event where the talk or speech takes place; or copies of any publications, books, and tapes that provide a record of the event.

e. In some circumstances, an NNMC employee may be able to conduct outside teaching even though it relates to the NNMC employee's official duties when either (i) The circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his official position rather than his expertise on the particular subject matter or (ii) The subject of the activity deals in significant part with any matter to which the employee presently is assigned or to which the employee had been assigned during the previous one-year period or any ongoing or announced policy, program or operation of the agency. In these instances, an employee may accept compensation for teaching a course, even if it requires multiple presentations, so long as the course is offered as a part of a regularly established curriculum of an institution of higher education, an elementary school, a secondary school, or an education or training program sponsored by a local, state, or the Federal Government (reference (v)).

f. If one performs outside teaching, speaking or writing, the NNMC employee shall not use or permit the use of official title or position to identify the employee in connection with the outside teaching, speaking or writing activity or to promote any book, seminar, course, program or similar undertaking. However, per reference (a):

(1) A NNMC employee can include his/her title or position as part of biographical information, but it cannot take any more prominence than other biographical details; and

(2) The title or position may be used in connection with an article published in a scientific or professional journal so long as there is a reasonably prominent disclaimer

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that states that the views expressed in the article do not necessarily represent the views of the Department of the Navy or the United States.

g. Additionally, per reference (a), NNMC employees generally are not to use normal duty hours or DoD facilities, property, or personnel to prepare for an outside teaching, speaking, or writing event. They are also not to use official DoD information generally not available to the public and which would not be released under the Freedom of Information Act (reference (o)).

h. The online publication clearance process through IRBNet (Enclosure (8)) serves as the approval process for all infrequent writing, teaching, and speaking engagements. If the NNMC employee receives pay for the speaking, teaching, or writing engagement, the NNMC employee must specifically disclose this information when submitting the publication for clearance. For regular, reoccurring teaching and speaking engagements, off-duty employment permission must be obtained as outlined in paragraphs. 8 through 11, as applicable.

13. Provisions Applicable for Outside Activities (No Remuneration/Pay).

a. NNMC employees who wishes to participate in outside activities for no remuneration (i.e., volunteering or no pay) are encouraged to seek additional guidance from the Staff Judge Advocate's Office to make certain he or she is complying with all rules of ethical behavior.

b. For instance, whether or not the individual needs to be in a leave status when participating in these activities is going to be case specific.

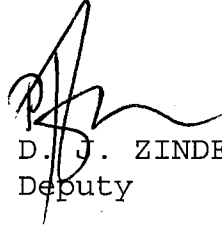
c. Generally, when NNMC employees engage in an unpaid outside activity, where there is no connection to the employee's duties to and at NNMC, the employee is likely not considered a Federal employee for purposes of portability of licensure and liability protection.

14. Internal Review. The Head, Command Evaluation and Investigation shall conduct an annual review of the off-duty employment activities of NNMC personnel to ensure compliance

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with the provisions delineated in this instruction and will address the adequacy of existing internal controls.

15. This instruction is effective upon receipt. All previously granted off-duty employment requests will remain in effect; however, Monthly and Annual Off-duty Employment Reports are required.



D. J. ZINDER
Deputy

Distribution:
NNMC Intranet

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OFF-DUTY EMPLOYMENT ACKNOWLEDGMENT

This form will be completed and signed by all staff personnel requesting permission to engage in off-duty employment, regardless of the nature of such employment.

I hereby acknowledge that I have been notified of and have had available to me the NNMCIINST 5370.2C. I am aware and have knowledge of the contents of this instruction and understand that any action by me that violates or is contrary to the provisions of the instruction may result in disciplinary action in accordance with the Uniform Code of Military Justice, or the appropriate administrative or employment actions.

CONSENT AND RELEASE FROM LIABILITY:

I authorize the Commander, National Naval Medical Center, Bethesda and their legal representatives, for the purpose of overseeing my off-duty employment, to contact and receive copies of all records, documents, and information concerning my off-duty employment from my employer. This includes, but is not limited to, all pay records, IRS reports, logs, time sheets, Quality Assurance Reports, and credentialing matters.

I release from liability all individuals and organizations who respond to inquiries regarding my off-duty employment.

Signature

Date

FOR HEALTH CARE PROVIDERS:

I hereby acknowledge that I am aware that when I engage in off-duty remunerative civilian employment, I do this apart from my assigned government duties. I also am aware and acknowledge that in the off-duty employment, I will not be working for the United States Navy and, therefore, will not be covered for medical malpractice liability under 10 United States Code, Section 1089 ("Gonzales Act") or any other statute or regulation. Any claim or lawsuit involving an allegation of medical malpractice on my, or my employer's behalf will be my, or my employer's sole responsibility and not that of the United States Government.

Requesting Provider/Date

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OFF-DUTY CIVILIAN EMPLOYMENT REQUEST-FOR HEALTHCARE

PRIVACY ACT STATEMENT: Social Security Numbers are requested under the authority of Executive Order 9397 for the purpose of identifying the requester. Disclosure is voluntary, but failure to do so may result in the delay or denial of your request.

Section A.

From:

(Name, rank/grade/social security number)

To: Command Officer, National Naval Medical Center

- Ref:
- (a) 5 U.S.C. sec. 5536
 - (b) DOD 5500.7-R
 - (c) DOD 6025.13-R
 - (d) HA Policy 96-050, "Policy for Off-Duty Employment by DOD Health Care Practitioners"
 - (e) ASD(HA) Memorandum of 23 July 1996
 - (f) MANMED Article 1-22
 - (g) NNMCIINST 5370.2C

1. Per the above references, I request permission to engage in off-duty employment.

- a. My proposed employer is: _____
- b. My proposed worksite is located at: _____
- c. My proposed worksite telephone number is: _____
- d. My proposed work hours are: _____
- e. My proposed duties will include: _____

f. I believe the impact my off-duty employment will have on the local community is (explain how it will benefit or otherwise effect the civilian community and practitioners and/or attach a statement from the local professional society):

g. I do/do not have permission to engage in other off-duty employment (state details on separate sheet, if applicable).

h. I will submit not later than the 10th of each month a report detailing the number of hours worked during the previous month, including employer verification of that information. I also understand that it is my obligation to inform my chain of command in writing of any change in my proposed off-duty employment, as set forth in this memorandum, before the inception of such change.

2. I acknowledge the following limitations on my off-duty employment and have explained them to my proposed employer:

- a. The site of my off-duty employment must be located within 2 hours travel time, by land, of the site of my military duties.
- b. I must have a period of at least 6 hours between the end of my off-duty employment and the start of my military duties and must not work more than 16 hours per continuous 7-day period without specific approval of my commanding officer.
- c. As part of my off-duty employment, I must not assume primary responsibility for the medical or dental care of any patient on a continuing basis.

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d. My off-duty employment must not be performed on military premises; involve expense to the Federal Government; or involve use of military personnel or supplies.

e. As a military member, I may be required to respond immediately to calls for military duty, or

As a civilian officer equivalent healthcare practitioner, or contract healthcare practitioner, I may be required to respond immediately to calls for duty. My obligation for such recall is as follows:

f. I am responsible for compliance with all local licensing, Federal Drug Enforcement Administration, and personal medical liability coverage requirements.

g. I must take annual leave for any obligations (e.g., court appearances or testimony before a compensation board) arising out of off-duty employment when these obligations require absence during duty hours. There is no guarantee that the leave request will be approved by my command.

h. I must not refer patients from the military treatment facility to my prospective employer's facility.

i. I must not solicit or accept a fee directly or indirectly, and my prospective employer must not charge, for my care of a Department of Defense (DoD) healthcare beneficiary (i.e., member, retired member, or dependent of such member) of the Uniformed Services. TRICARE payments shall be disallowed in any claim from a TRICARE provider in those instances when a Navy healthcare provider renders services to such a person, for the services provided by the Navy healthcare practitioner. This restriction does not apply to dental services provided to CONUS enrollees of the TRICARE Family Member Dental Plan. TRICARE payments for services I provide a DoD health care beneficiary during my off-duty employment shall be disallowed.

Signature

Date

Section B.

From: Authorized Representative of Proposed Employer
To: Command Officer, National Naval Medical Center
Subj: OFF-DUTY EMPLOYMENT OF

1. I am the authorized representative of _____

2. I have read and accept the foregoing limitations, including the compensation and availability limitations, on the off-duty employment of _____

3. I certify that this facility will not seek payment from a DoD beneficiary, TRICARE, or the Federal Government for health care provided by _____ to DoD beneficiaries except to dental services provided to CONUS enrollees of the TRICARE Family Member Dental Plan.

(Name/Title/Date)

Recommend approval/disapproval.

Recommend approval/disapproval.

Name/Grade of Immediate Supervisor & Date

Name/Grade of Department Chief & Date

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Recommend approval/disapproval.

Recommend approval/disapproval.

Name/Grade, SJA Office Date

Name/Grade, SJA Office Date

Section C.

From: Command Officer, National Naval Medical Center
To: _____

1. The above request is approved/disapproved.

(Name/Date)

~~OFF-DUTY CIVILIAN EMPLOYMENT REQUEST-FOR NON-HEALTHCARE~~

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PRIVACY ACT STATEMENT: Social Security Numbers are requested under the authority of Executive Order 9397 for the purpose of identifying the requester. Disclosure is voluntary, but failure to do so may result in the delay or denial of your request.

Section A.

From: _____
(Name, rank/grade/social security number)

To: Command Officer, National Naval Medical Center

- Ref: (a) 5 U.S.C. sec. 5536
 (b) DOD 5500.7-R
 (c) DOD 6025.13-R
 (d) HA Policy 96-050, "Policy for Off-Duty Employment by DOD Health Care Practitioners"
 (e) ASD(HA) Memorandum of 23 July 1996
 (f) MANMED Article 1-22
 (g) NNMCIINST 5370.2C

1. Per the above references, I request permission to engage in off-duty employment.
 - a. My proposed employer is: _____
 - b. My proposed worksite is located at: _____
 - c. My proposed worksite telephone number is: _____
 - d. My proposed work hours are: _____
 - e. My proposed duties will include: _____

f. I do/do not have permission to engage in other off-duty employment (state details on separate sheet, if applicable).

g. I will submit not later than the 10th of each month a report detailing the number of hours worked during the previous month, including employer verification of that information. I also understand that it is my obligation to inform my chain of command in writing of any change in my proposed off-duty employment, as set forth in this memorandum, before the inception of such change.

2. I acknowledge the following limitations on my off-duty employment and have explained them to my proposed employer:

- a. The site of my off-duty employment must be located within 2 hours travel time, by land, of the site of my military duties.
- b. I must have a period of at least 6 hours between the end of my off-duty employment and the start of my military duties and must not work more than 16 hours per continuous 7-day period without specific approval of my commanding officer.
- c. My off-duty employment must not be performed on military premises; involve expense to the Federal Government; or involve use of military personnel or supplies.
- d. As a military member, I may be required to respond immediately to calls for military duty, or

As a civilian officer equivalent healthcare practitioner, or contract healthcare practitioner, I may be required to respond immediately to calls for duty. My obligation for such recall is as follows:

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e. I may not use other Government resources, equipment, or employees in the performance of my off-duty employment.

f. I must take annual leave for any obligations (e.g., court appearances or testimony before a compensation board) arising out of off-duty employment when these obligations require absence during duty hours. There is no guarantee that the leave request will be approved by my command.

	Signature		Date
.....			
Recommend approval/disapproval.		Recommend approval/disapproval.	

Name/Grade of Immediate Supervisor & Date	Name/Grade of Department Chief & Date
Recommend approval/disapproval.	Recommend approval/disapproval.

Name/Grade, SJA Office Date	Name/Grade, SJA Office Date
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Section B.

From: Command Officer, National Naval Medical Center
To: _____

- The above request is approved/disapproved.

(Name/Date)

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Employer:
Address:
City/State:
Date:

Commander
National Naval Medical Center
8901 Wisconsin Avenue
Bethesda, MD 20889-5600

Dear:

SUBJECT: OFF-DUTY EMPLOYMENT

This letter is to acknowledge the compensation and availability limitations applicable to the employment of military health care providers.

a. As a condition of off-duty employment, I accept the fact that a Department of Defense (DOD) military healthcare practitioner/provider may not solicit or accept compensation, directly or indirectly, from the appropriated funds of any Federal agency or department for care rendered to any patient. This restriction applies to payments received from the TRICARE and the Veterans Administration. Furthermore, TRICARE payments will be disallowed in any claim from a TRICARE provider in those instances when a DOD healthcare practitioner/provider provides direct health care services to the DOD beneficiary regardless of the intended disbursement of such compensation.

b. I further certify that this facility will seek no direct payments from DOD healthcare beneficiaries for services provided by DOD healthcare practitioners/providers and will not hold any CHAMPUS or TRICARE recipient liable for any disallowance made because of the application of provisions herein.

c. The DOD healthcare practitioner's/provider's off-duty employment will be limited to 16 hours per week unless authorized by the Commander, National Naval Medical Center. Additionally, scheduling of off-duty employment must allow for a 6-hour rest period between the end of the off-duty employment at the civilian health care facility and the beginning of military duties.

d. I understand that a DOD healthcare practitioner/provider

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may not assume, on a continuing basis, the primary responsibility for the medical or dental care of any patient at any off-duty civilian health care facility.

e. A military healthcare practitioner/provider is required to respond immediately for military duties that may arise during the scheduled off-duty employment. A civilian healthcare practitioner/provider must also timely respond.

f. This health care facility will notify within 72 hours the Commander/Commanding Officer of the DoD healthcare practitioner/provider of any derogatory professional incident(s), which may occur concerning such practitioner/provider.

g. A DOD healthcare practitioner/provider may not refer patients from a military treatment facility to facilities with which the practitioner/provider maintains off-duty employment.

h. A DoD healthcare practitioner/provider must comply with local licensing requirements and the requirements of the Federal Drug Enforcement Administration, and is responsible for the maintenance of personal medical liability insurance coverage.

i. A DOD healthcare practitioner/provider must apply for annual leave for any obligation (i.e., court appearance or testimony before a compensation board) arising out of off-duty employment when these obligations require absence from the military command during normal duty hours.

j. Understanding the above, (name of employer) accepts the compensation and availability limitations placed on (name of employee) and requests that he/she be permitted to engage in off-duty employment with (name of employer).

Sincerely,

(Employer's Signature)

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SPECIAL REQUEST/AUTHORIZATION		SUPPORTING DIRECTIVE MILPERSMAN ARTICLES 1510-010 AND 1515-040	
PRIVACY ACT STATEMENT THE AUTHORITY TO REQUEST THIS INFORMATION IS CONTAINED IN 5 USC 301, AND FRIM E.O. 5397 DEPARTMENTAL REGULATIONS. THE PRINCIPLE PURPOSE OF THE INFORMATION IS TO ENABLE YOU TO MAKE KNOW YOUR DESIRE FOR ITEMS LISTED OR FOR SOME OTHER SPECIAL CONSIDERATION OR AUTHORIZATION. THE INFORMATION WILL BE USED TO ASSIST OFFICIALS AND EMPLOYEES OF THE DEPARTMENT OF THE NAVY IN DETERMINING YOUR ELIGIBILITY FOR AND APPROVING OR DISAPPROVING THE SPECIAL CONSIDERATION OR AUTHORIZATION BEING REQUESTED. COMPLETION OF THE FORM IS MANDATORY, FAILURE TO PROVIDE REQUIRED INFORMATION MAY RESULT IN DELAY IN RESPONSE TO OR DISAPPROVAL OF YOUR REQUEST.			
NAME:		RATE:	SSN:
SHIP OR STATION:		DATE OF REQUEST:	
DEPARTMENT/DIVISION:		DUTY SECTION/GROUP:	
NATURE OF REQUEST: <input type="checkbox"/> LEAVE <input type="checkbox"/> SPECIAL LIBERTY <input type="checkbox"/> SPECIAL PAY <input type="checkbox"/> COMMUTED RATIONS <input type="checkbox"/> OTHER (BELOW)			
NO. OF DAYS REQUESTED:	FROM (DATE AND TIME):	TO (DATE AND TIME):	
DISTANCE (MILES):	MODE OF TRAVEL: <input type="checkbox"/> CAR <input type="checkbox"/> AIR <input type="checkbox"/> TRAIN <input type="checkbox"/> BUS		
LEAVE ADDRESS:		TELEPHONE NUMBER:	
REASON FOR REQUEST:			
SIGNATURE OF APPLICANT:			
I AM ELIGIBLE AND OBLIGATE MYSELF TO PERFORM ALL DUTIES OF PERSON MAKING APPLICATION.			
SIGNATURE OF STANDBY:		DUTY STATION:	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
RECOMMENDED APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO		SIGNATURE AND RANK/RATE/TITLE/DATE	
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED		SIGNATURE	
REASON FOR DISAPPROVAL:			

NAVPERS 113603 (REV. 09-99)

SN: 0106-LF-138-0400

FOR OFFICIAL USE ONLY
WHEN FILLED IN

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MONTHLY OFF-DUTY EMPLOYMENT REPORT

WEEK	CIVILIAN EMPLOYMENT TOTAL HOURS DURING WEEK	LOCATION(S)
____ to ____		
____ to ____		
____ to ____		
____ to ____		
____ to ____		

TOTAL HOURS:

I verify this information is accurate and complete.

Print Name: Last, First, MI

Signature/Date

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ANNUAL OFF-DUTY EMPLOYMENT STATEMENT
for
NNMC HEALTH CARE PROVIDERS
PRIVACY ACT STATEMENT

1. Authority: DOD 5500.7-R.
2. Principal Purposes: The information solicited is intended principally for the purpose of monitoring the off-duty employment status of NNMC and subordinate command health care providers to ensure compliance with requirements imposed by higher authority and local directives.
3. Routine Uses: The information will be used within the Departments of Defense and Navy in order to monitor off-duty employment by Navy Health Care Providers.
4. Mandatory/Disclose: Disclosure of off-duty employment status is mandatory under DOD and DON directives. Refusal to disclose such information or providing false information will subject you to possible disciplinary or criminal proceedings.

LAST NAME, FIRST, MI

RANK/RATE

Initial applicable paragraph:

_____ a. I am presently participating in off-duty employment and have an approved request for such off-duty employment on file with the command.

OR

_____ b. I am not presently participating in off-duty employment. I acknowledge that prior to engaging in off-duty employment I must request and receive prior approval from the Commander/Commanding Officer (as applicable) in accordance with NNMCINST 5370.2C.

SIGNATURE

DATE

PRINTED NAME

PHONE #

PAGER #

DEPT

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Publication Clearance

You must first obtain an account through AKO/DKO and then submit it through IRBNet, which is accessed using this account.

To Obtain your AKO/DKO Account to access DMRN/IRBNet (DKO and AKO used synonymously):

- 1) Proceed to AKO/DKO Login screen (https://www.us.army.mil)
- 2) Click "Register for DKO" which opens window to right (see below)

If **Military members and DOD civilians**, register for DKO **un-sponsored** account:

- 3) If Army related, select "Create Army Account", otherwise, select "Create Joint Account"
- 4) Enter SSAN and Date Of Birth
- 5) Complete registration

CAC Registration: To use your CAC card, you will need to register it in DKO (See directions below). CAC and/or username/password allows you to use DMRN/IRBNet.

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Before attempting to log in to AKO/DKO using your CAC, please ensure that your CAC has been registered with AKO/DKO first. [Click Here](#) for instructions on how to register your CAC with the AKO/DKO portal.

Login into AKO/DKO with your CAC

Follow the following instructions to log into your AKO/DKO account with your CAC:

1. Go to <https://www.us.army.mil>.
2. Click the 'CAC Login' button.
3. Select your ID certificate. This can be identified by your CAC username: LAST.FIRST.MI.XXXXXXXXXX where the X's represent your CAC's EDIPI. [Click Here](#) to learn more on EDIPI.
4. Click 'OK'.
5. Enter your CAC PIN. If you have already logged in to your local computer using your CAC and PIN, then AKO/DKO may not require any of this information, as it would be stored locally by your CAC authentication software.
6. The system will then validate your ID certificate and log you into the AKO/DKO portal.

Validate CAC Login

To validate that you have performed a CAC login, look at the login message in the upper right-hand corner of the AKO/DKO homepage which should read "Welcome [Your Name] (CAC Session)".

New CAC

If you have been issued a new CAC, you will need to register the new CAC with AKO/DKO before you are able to log in with it. [Click Here](#) for instructions on how to register your newly issued CAC.

Helpdesk: If have issues, help resources are available on the DKO/AKO login screen or by calling 703-704-4357. To verify account, you should be able to get the DMRN web page below at <https://www.us.army.mil/suite/page/596540>

